IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE EIGHTEENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 15849 of 2004

Between:

G.Prasad Kumar, s/o G.Ram Kumar,
R/o H.No.1-20/2, Sowmya Communication, Mubvarak Nagar,
Nizamabad.

..... PETITIONER

AND

1 The General Manager, Bharath Sanchar Nigam Ltd.,
Nizamabad.
2 The Sub-Divisional Engineer, External-II, Bharath Sanchar Nigam Ltd.,
Nizamabad.
3 The Sub-Divisional Engineer (Commercial), GMTD, Bharath Sanchar Nigam Ltd., Nizamabad.
4 The Divisional Engineer (Urban), BSNL, Nizamabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction, more particularly one in the nature of writ of mandamus declaring the action of the respondents in disconnecting the petitioner's public telephone NZSN-241234on 25-8-2004 without giving any notice nor giving any reply to the legal notice on 16-8-2004 issued to the respondents is highly arbitrary, illegal, unconstitutional and consequently to direct the respondents to restore the services of petitioner's public telephone forthwith in the interest of justice.

Counsel for the Petitioner: Mr. M. Subba Rao.

Counsel for the Respondents: Mr. C. Yadagiri, standing counsel for BSNL.

The Court made the following:

O R D E R:

This writ petition is filed seeking a writ of Mandamus declaring the alleged action of the respondents in disconnecting the petitioner's public telephone NZSN – 241234 dated 25-08-2004 as arbitrary and illegal.

The petitioner states that he is the subscriber of a public telephone NZSN – 241234 and has been paying the necessary charges regularly and that the same was got transferred to the premises No.1-20/2, Sowmya Communication, Mubarak Nagar, Nizamabad. While so, the second respondent by proceedings dated 11-08-2004 directed him to submit his *bona fides* along with the recent photo on or before 17-08-2004, alleging that the telephone connection was being misused by some other customer, which is against the departmental rules. The petitioner states that said allegation is incorrect and, therefore, he got issued a legal notice dated 16-08-2004 denying the same. According to the petitioner, the second respondent, without issuing any further notice and without conducting any enquiry, disconnected the telephone connection on 25-08-2004. Hence, this writ petition.

A detailed counter-affidavit was filed by the Assistant General

Manager (Legal) stating that one G. Prasad Kumar, S/o Nagabhushanam had applied on 07-05-2003 for provision of a Coin Collecting Box Public Telephone (for brevity "CCBPT") at House No.3-8-18, Kotagalli, Nizamabad. In pursuance thereof, a CCBPT was sanctioned and license was issued to him on 09-01-2004. Thereafter, on 02-02-2004, the said Prasad Kumar had given change of address as House No.1-20/2, Mubarak Nagar, Nazamabad for installation of CCBPT and accordingly, CCBPT was provided in the said premises on 11-04-2004. While so, the said Prasad Kumar made a representation stating that CCBPT was not installed in his name and that the same was installed at the above address and was working for some other person. In pursuance thereof, an inspection was conducted, whereupon it was found that the CCBPT was working for some other person. Accordingly, the CCBPT was disconnected since the same was being misused by a person other than the subscriber. It is also stated that the petitioner herein who has described himself as G. Prasad Kumar, S/o G. Ram Kumar, aged 34 years is different from the original applicant, who is G. Prasad Kumar, S/o Nagabhushanam, aged 18 years and as such, the petitioner has no *locus standi* to file the writ petition. It is further stated that though a notice was issued to the petitioner calling upon him to submit the necessary documents to show his *bona fides,* he has failed to submit any explanation, but on the other hand, he has issued a legal notice. In the circumstances, the disconnection of the CCBPT was rightly made by the respondents which is in accordance with law and therefore no interference is warranted.

From the averments in the counter-affidavit, it is clear that there is a dispute about the identity of the subscriber. The allegation against the petitioner is that he is not the original subscriber and the CCBPT which was installed at H.No.1-20/2, Mubaraknagar is being misused. In spite of the notice issued by the second respondent on 11-08-2004, admittedly the petitioner failed to submit the necessary documents as sought for.

In the facts and circumstances of the case, I am not inclined to declare the impugned disconnection either arbitrary and illegal. However, keeping in view the fact that except the legal notice, the petitioner has not yet submitted the explanation as directed by the second respondent, I deem it appropriate to dispose of the writ petition granting liberty to the petitioner to submit appropriate explanation to the notice dated 11-08-2004 together with the required documents, if any, within a period of four weeks from today, in which event, the respondents shall consider the same and pass appropriate orders, in accordance with law, within a period of four weeks thereafter.

With the above directions, the writ petition is disposed of. No costs.

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(G. ROHINI, J)

Date: 18-01-2005

ghn

To

1 The General Manager, Bharath Sanchar Nigam Ltd.,
Nizamabad.
2 The Sub-Divisional Engineer, External-II, Bharath Sanchar Nigam Ltd.,
Nizamabad.
3 The Sub-Divisional Engineer (Commercial), GMTD, Bharath Sanchar

Nigam Ltd., Nizamabad.
4 The Divisional Engineer (Urban), BSNL, Nizamabad.

5 Two CD copies.